

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:23-cv-00105-FDW

KIANA SMITH,)	
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
EPIQ GLOBAL BUSINESS)	
TRANSFORMATION SOULTIONS, LLC.,)	
)	
Defendant.)	

THIS MATTER is before the Court *sua sponte*. Plaintiff filed this case in this Court on February 22, 2023. (Doc. No. 1). Summons issued on May 18, 2023. (Doc. No. 6). On June 28, 2023, the Court extended the time for Plaintiff to effectuate service until August 21, 2023, and specifically directed Plaintiff to provide the necessary information for the U.S. Marshal to effectuate service on Defendant so that the Clerk shall direct the U.S. Marshal to do so. (Doc. No. 9, p. 2 (citing 28 U.S.C. § 1915(d))). On August 23, 2023, Plaintiff filed a revised summons, (Doc. No. 11), as well as a motion for extension of time for service of process, (Doc. No. 10). The Court granted the extension of time, (Doc. No. 12), giving until September 22, 2023, for the U.S. Marshal to effectuate service. Despite Plaintiff’s filing of a revised summons, it does not yet appear the U.S. Marshal has served Defendant.


Rule 4(m) of the Federal Rules of Civil Procedure requires service to occur within 90 days after a complaint is filed. Fed. R. Civ. P. 4(m). Over 90 days have elapsed since Plaintiff’s Complaint was filed, and Plaintiff has failed to provide proof of service. While “[f]ailure to prove service does not affect the validity of service,” Fed. R. Civ. P. 4(l)(3), without proof of service, the

Court can only conclude that service has not taken place. Absent a showing of good cause, failure to serve a defendant within this time frame permits the Court, on its own motion, to “dismiss the action without prejudice against that defendant.” Fed. R. Civ. P. 4(m). Under this record, the Court finds good cause to allow an extension of time until January 30, 2024, for the U.S. Marshal to serve the summons (Doc. No. 11) prepared by Plaintiff.

IT IS THEREFORE ORDERED that the U.S. Marshal shall effectuate service upon Defendant by January 30, 2024.

IT IS SO ORDERED.

Signed: January 2, 2024


Frank D. Whitney
United States District Judge

